I. Introduction

Upon entry of the present amendment, claims 20, 21, and 23-41 will be pending in

this application. Claim 20 has been amended to clarify certain aspects of the invention.

Support for these amendments appears in the specification at least at pages 5-6, and the

Figures. New claim 41 has been added, support for which appears in the specification at least at

page 5 and Figure 6. Claims 30 and 37 have been amended to correct grammatical errors. No

new matter has been added. Based on the following remarks, Applicants respectfully request

reconsideration and allowance of the pending claims.

Because the present amendments (1) do not raise new issues requiring further

consideration or search, (2) do not introduce new matter, (3) materially reduce the issues for

appeal, and (4) place this application into better condition for allowance, entry is appropriate

under 37 C.F.R. § 1.116, and is respectfully requested.

II. 35 U.S.C. § 112

The Examiner has rejected claim 20 under 35 U.S.C. § 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as invention. The Examiner states that Applicant has amended the

claim language to include the limitation of "a second part which secures the hygienic

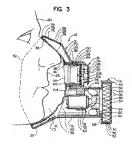
protection system," but it is unclear what the hygienic protection system is secured to.

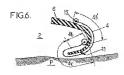
Without acquiescing to the Examiner's position, clarification has been made.

III. 35 U.S.C. § 102

The Examiner has rejected claims 20 and 23-38 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,372,130 to Stern. The Examiner submits that Stern teaches every element of the rejected claims. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Without acquiescing to the Examiner's position and in the interest of advancing the prosecution of this application, Applicants have clarified claim 20 to recite that the second part of the hygienic protection system is disposed in the internal groove of the oronasal face piece. By contrast, the component characterized as the hygienic protection system (16) of Stern is clearly not positioned in the gap between the flange (78) and the outer wall portion (75) of the mask. It does not cooperate with an internal groove, but with an external surface of the flange. Compare Figure 3 of Stern with Figure 6 of the pending application, both reproduced below:





"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See MPEP § 2131; Verdegaal Bros. V. Union Oil Co. of Calif., 814 F.2d 628, 631 (Fed. Cir. 1987). Because Stern does not teach the presently-claimed elements, Applicants respectfully request withdrawal of this rejection. Applicants further submit that the claims that depend from claim 20 should also be considered allowable at least for the above-discussed reasons

IV. 35 U.S.C. § 103

The Examiner has rejected claims 21, 30-35, and 38-40 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,372,130 to Stern in view of U.S. Patent No. 3,757,777 Kaufman. As to independent claim 39, the Examiner admits that Stern fails to teach that the second part (the lip securing part) is elastic but submits that Kaufman teaches a dual part filter system with a center portion made of filter media and a circumference made from a plastic. The Examiner's position is that it would have been obvious to modify Sterm to include different materials for each part. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

The Examiner's rejection of claim 39 tracks the language of claim 20. Applicants are thus unable to determine what features of Stern and Kaufman are being compared to the lip insulation part, semi-flexible lip, and lip securing part, as recited by claim 39. To the extent that this rejection is maintained, clarification is respectfully requested.

In an abundance of cooperation, Applicants have attempted to glean the Examiner's rejection based on the comment on page 7 that Stern portion 82 is being characterized as the claimed "lip securing part" and the comment on page 8 that "the bottom portion of element

82 located below the chin disconnected from the internal groove found at element 30 which

protrudes and separates from element 30" is being characterized as the claimed "lip

insulation part." This rejection is incorrect because there is no portion of Stern part 82 that is

shown or described as exerting a compressing pressure on the oronasal face piece in order to

maintain the hygienic protection system on the oronasal face piece, as recited by claim 39.

The Examiner has failed to point to any feature in either cited reference that teaches this

claimed element.

Because the cited combination does not teach the presently-claimed elements,

Applicants respectfully request withdrawal of this rejection. Applicants further submit that

the claims that depend from claim 39 should also be considered allowable at least for the

above-discussed reasons.

U.S. Serial No. 10/555,816 Response to Office Action dated December 16, 2008

Page 10 of 10

CONCLUSION

For at least the above reasons, Applicants respectfully request allowance of the

pending claims and issuance of a patent containing these claims in due course. If the

Examiner believes there are any issues that can be resolved via a telephone conference, or if

there are any informalities that can be corrected by an Examiner's amendment, he is invited

to contact the undersigned.

Respectfully submitted,

/Kristin M. Crall 46,895/

Kristin M. Crall Reg. No. 46,895

KILPATRICK STOCKTON LLP 1100 Peachtree Street Suite 2800 Atlanta, Georgia, 30309-4530

404.815.6147